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REPORT FROM THE CONFERENCE ON NEW DIPLOMACY: THE DEVELOPMENT OF NORMS AND INTERNATIONAL LAW

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A group of academics, legal experts, government officials, business people, and NGO representatives met in Amman (April 2001) to address key issues related to New Diplomacy. The meeting was the last of three looking at the impact of state and NGO initiatives on the mandates and functioning of international institutions. This discussion series was a joint project undertaken by the United Nations University in Tokyo, the Centre on Foreign Policy and Federalism at the University of Waterloo and the Canadian Centre for Foreign Policy Development. It was also supported by the Department of Foreign Affairs and International Trade. The first meeting explored the conceptual complexity and operational realities of the changing international system by looking at the campaign for a global ban on anti-personnel land mines and the efforts to establish a permanent International Criminal Court (September 28-30, 1999, Acton, Ontario). The Tokyo meeting addressed the conceptual shift toward human security at the United Nations as well as the possibilities and limits of reforming the United Nations Security Council. The feasibility, effectiveness and legitimacy of codes of conduct and their potential impact on states, non-governmental organisations and business was also assessed. The meeting in Amman concentrated on the development of international law. Among the participants were: Stephen Owen (M.P.) - representing Foreign Affairs Minister John Manley, Ramesh Thakur (United Nations University), William Schabas (Irish Centre for Human Rights), Alexei Avtonomov (Russian Academy of Science), John English (University of Waterloo), Sharifa Zein Al Sharaf bint Nasser (Jordan Badia Research and Development Programme), Kamel Abu Jabber (former Minister of Foreign Affairs), and Asma Khader (Higher Committee on Human Rights). Ambassador to Jordan Roderick Bell, Steven Lee (Canadian Centre for Foreign Policy Development, Department of Foreign Affairs and International Trade - DFAIT), Donica Pottie (Canadian Embassy in Jordan, DFAIT), Marketa Geislerova (Canadian Centre for Foreign Policy Development, DFAIT) and former Ambassador Michel de Salaberry also attended.

1. INTRODUCTION

The key goals of the Amman Conference were to examine the creation of international norms and laws, to assess the impact of non-state actors and to reflect on the approaches to New Diplomacy. The participants addressed the origins of the International Criminal Court (ICC) and the content of the Statute of Rome. The way norms are built, diffused and enforced was also considered. However, the bulk of the discussion focussed on the conceptual and theoretical context for these processes. In particular, participants debated elements of the so called New

Diplomacy and the nature of globalisation.[1] Key points of this discussion are summarised in the second part of this report.

Many participants stressed the multipolar nature of international relations and the growth of intra-state conflicts. Non-state actors, including: NGOs, regional and international organisations, as well as the media, have become key players on the world stage along with governments. Small states have also began to have a bigger role as they join forces in like-minded coalitions. The growing role of civil society in policy making has pushed governments to adopt more human-centred approaches. Supranational governing bodies, such as the European Union, are effectively changing traditional state – citizen relations. Europeans are compelled to develop multiple loyalties and identities in order to adapt to the shift from national to supranational governance.

As a backdrop to these developments, substantive asymmetries persist and grow between the rich "North" and the poor "South." They are apparent in the dramatically different living standards the peoples located in these two different spaces enjoy. What may be perhaps less obvious is how these asymmetries play out in world governance. Poorer, Non-Western countries have a relatively small impact on how the world is governed. This situation is reflected in the actions (or non-actions) of the UN Security Council. Some participants suggested that the Security Council is guided by the strategic interests of the P-5 rather than by the objective of maintaining world peace and security. Therefore, UN Security Council resolutions are often selective and inconsistent, coming to the rescue of some while abandoning others.

These considerations were at the core of our discussion about the functioning of the International Criminal Court and the development of international norms, included in part three and four of this report. Participants stressed the need for the ICC to remain independent from the UN Security Council in order to avoid entangling the legal body in the strategic interests of the "great powers." The danger of high-mindedness in imposing allegedly universal norms created in the "North" was also raised. The need for cooperation, mutual respect and ethical leadership to

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[1] New Diplomacy is a term which reflects the shift from concentrated top-down leadership in the international system to a multi-sourced bottom-up mode of leadership. The basic operating assumption is that the former model is being replaced by alternative sources of initiative and innovation emanating from two places in particular. The first alternative source of leadership has come from the diplomacy of middle-power, or like-minded states. The second comes from the expanding diplomatic role of civil society in general and NGOs in particular. For further theoretical elaboration of new diplomacy, see The Canadian Centre for Foreign Policy Development, *Report form the Conference on New Diplomacy: The United Nations, Like-minded Countries and Non-governmental Organisations* (September 28-30, 1999, Millcroft Inn, Ontario), no.1011.6E.

build a more balanced world governance was stressed time and time again. The role of NGOs and the private sector in this endeavour was also discussed during the conference and is summarised in the last part of this report.

2. NEW DIPLOMACY: CONCEPTUAL AND THEORETICAL CONTEXT

2.1 Framing the Discussion

Several speakers examined the changing nature of international relations throughout the conference, each emphasising different elements of New Diplomacy. The synopsis below reflects the presentations of three speakers: Kennedy Graham (United Nations University International Leadership Academy), Hans Sulimma (former German Ambassador) and Steven Lee (The Canadian Centre for Foreign Policy Development, Department of Foreign Affairs and International Trade). Graham focussed on the changing nature of diplomacy at the United Nations and the importance of small states. Meanwhile, Sulimma addressed the growing role of regional organisations in global governance and New Diplomacy at the European Union. Lee drew attention to possible implications of a shift in U.S. foreign policy towards unilateralism. These broader contributions create a framework for a more focussed discussion on the creation of international norms.

Kennedy Graham drew attention to the changing nature of diplomacy at the United Nations. He said that a positive partnership between civil society groups and governments have developed on key issues, including the environment and nuclear weapons. Only now, 56 years after the creation of the UN Charter, the words of the opening preamble "We the peoples" are beginning to ring true, as the pursuit of narrow national interests gives way to a more human-centred approach. This shift was reflected in the Millennium Assembly, which opened at the Headquarters of the United Nations in New York on September 5, 2000. "The Summit was a historic opportunity to agree on a process for fundamental review of the role of, and challenges facing the United Nations in the new century."[2]

Graham highlighted the role of small states in world affairs. Small states are the glue of international cooperation, since they understand the need to work together with other states and entities. Jordan is among such states and has earned a reputation for its commitment to peace and peacekeeping.

Hans Sulimma said that the campaign to ban landmines and the establishment of the ICC are not sufficient to set a long lasting trend. The dynamism of Lloyd Axworthy will be missed.

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[2] See the Millennium Report of the Secretary General at: http://www.un.org/millennium/sg/report/index.html

However, it is plausible that conditions will arise again to break through on an international relations issue, new energy will be generated, and hopefully, a new advocate will appear. Obstacles could include the fragmented international NGO community or U.S. unilateralism.

Sulimma said that regional organisations such as, for example, the Arab League, NAFTA or MERCOSUR are gaining in importance. He pointed out that the EU could serve as a model for developing transnational linkages. The history of European integration and the goal to create more than an economic union could be instructive for other regions in the world. New Diplomacy is demonstrated within the EU system through the changing role of embassies, for instance. Policy makers from different European countries are in direct contact with each other, diminishing the role of ambassadors and their staff. Another element of New Diplomacy within the EU is decision making on a supranational level.

Steven Lee examined new directions in U.S. foreign policy and their possible impact on our discussion, the effectiveness of middle power initiatives, and the work of international bodies such as the UN and the International Criminal Court. He based his conclusions on a series of Roundtables the Canadian Centre for Foreign Policy Development organised in the U.S. and in Canada.[3] Despite divisions within the early Bush administration, a new approach to foreign policy is emerging. U.S. interest is narrowly defined and focusses on three key areas:

1. Promoting the health of the American economy,
2. Ensuring adequate homeland defence,
3. Maintaining U.S. power in the world.

The U.S. attitude demonstrates unilateral tendencies and acknowledges that the U.S. government can do whatever it wants, anywhere and in any way it wishes. The new approach encourages others to tend to their own "backyards," as long as they do not interfere with U.S. interests. These developments raise a number of questions, including: What are the implications of the U.S. disengagement from world governance and who will fill the vacuum?

2.2. Perspectives from Jordan

The next three speakers added a regional perspective to the discussion on the changing nature of international relations and the meaning of New Diplomacy. Adnan Abu Odeh (former UN Ambassador of Jordan) examined the shift from a bipolar to a multilateral era, characterised by intrastate conflicts, and drew attention to the need for new leadership. He also addressed the relationship between civil society and the state in Jordan and the Middle East. Ataur Rahman

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[3] For summary reports from the CCFPD Roundtable Series on *New Directions in U.S. Foreign Policy* go to http://www.ecommons.net/ccfpd/

(United Nations University International Leadership Academy) pointed to the coexistence of the old world order with the new and examined the obstacles to creating a global democracy. Asma Khader (Higher Committee on Human Rights) drew attention to the persistent and deepening asymmetries between the "North" and the "South" and the need to adjust United Nations policies to the needs of the people (rather than powerful states).

Adnan Abu Odeh expressed his pleasure at Jordan being a part of the New Diplomacy conference series. He drew attention to the work of Queen Noor of Jordan on anti-personnel landmines as one example of Jordan's commitment to human security. He went on to say that a new multilateral era, which has replaced the bipolar order, is characterised by the growth of internal conflicts. Internal social turmoils, including more assertive demands of minorities, secessionist movements and irredentist forces, have intensified. New actors, including NGOs, supranational organisations, businesses, like minded countries and middle powers, have emerged to challenge the monopoly of the so called great powers over decision making. To address the negative consequences of reforms necessitated by these trends, cooperation of governments with civil society actors is required. The UN has slowly opened up and bottom-up pressure has been effective in steering the UN agenda in new directions (i.e., a focus on environment, development, human rights, women's issues, etc.). Diplomats are challenged to adjust to this new world order. The United Nations University could perhaps be a good place where diplomats could be trained to respond adequately to this new environment.

He drew attention to the improving relationship between civil society groups and the government in Jordan. He said that NGOs have an important role to play in strengthening democracy in Jordan and in the region. He encouraged the governments of Jordan and other Arab states to be more open to civil society. Preventive diplomacy is often difficult in Arab countries because identifying nascent problems is often perceived as "blowing the whistle." NGOs are broadly categorised into two groups: partners and adversaries. The former group cooperates with the government. The latter opposes or criticises the government. As a result, adversarial NGOs are treated as opposition parties – a tactic that is often counter-productive. He suggested that exclusion of NGOs often lead to their radicalisation. He argued against a designed cooptation of NGOs by the state. Instead, funding should be aimed at protecting, encouraging and strengthening NGOs in the region.

Ataur Rahman suggested that bilateral diplomacy, based on narrow self interest, has shifted since the end of the Second World War toward a more open multilateral diplomacy. The collapse of the Soviet Union was a major catalyst for change. However, many elements of the Cold War era persist and coexist with the new. Both integration and fragmentation define our time. Among the elements of the New Diplomacy are:

- a new geo-economic block formed by the U.S., Europe and Japan,
- the unprecedented role of the media,
- the growing role of international organisations including the UN, International Monetary Fund, the World Bank,

- the importance of global civil society in norm setting.

One implication of these shifts, and especially of the growing voice of civil society, is the belief that people around the world have a right to development. This requires a new framework for the UN. An inclusive, bottom-up approach must replace the agent-principal, top down approach. Governance requires convergence among partners and UN reform. Transition to a global democracy will be difficult. Major constraints, including the interests of the powerful states and corporations, will stand in the way. New leadership at all levels (i.e., local, national, global) and within both public and private sectors is necessary to transform the vision of a democratic governance into reality. Women should be empowered to lead. New leaders should be able to adapt to new circumstances and base their leadership on ethics. They should be mindful of our common responsibility for the planet and the potential for power to corrupt and generate arrogance. Reiterating Abu Odeh's point, Rahman concluded by suggesting that the UN and universities around the world have a role to play in developing future leaders.

Asma Khader said that New Diplomacy should work in the interest of every individual (through instruments such as human rights law and humanitarian law, for instance). She expressed support for both the Ottawa Treaty and the Statute of Rome establishing the International Criminal Court and asked why other issues, including poverty or militarisation, are not taken up in a similar manner.

She drew attention to the enormous asymmetry between the "North" and the "South." Power (i.e., military, political, economic) and knowledge (i.e., technology, scientific advances, etc.) are overwhelmingly concentrated in the "North." This asymmetry reflects itself at the UN Security Council, where the interests of the P-5 guide the policies of the UN. In order to create some balance, the UN has to be democratised so that it is "the peoples" of the world that set policies according to their needs. A good example of the incongruence between the interests of the UN Security Council and the needs of "the people" is the imposition of sanctions against Iraq, which have exacted massive human suffering with doubtful political outcomes.

The imbalance between the "North" and "South" in terms of issues including: social security, poverty, health and housing standards, is also keen and remains largely unaddressed by the international community. Opening up the UN to NGOs and broader civil society is a good first step. However, the marginalised people of the world need to organise themselves and create global initiatives to counter the negative impacts of globalisation. These coalitions should be equal partners to the UN members. They should be free to develop initiatives and shape policies. "Today, they are still struggling just to participate." She emphasised the need to listen to the grass-roots and the voices of the marginalised including women, children and other vulnerable groups.

Linkages between people around the world have to be strengthened. These relationships are often perceived by states as threatening. However, if NGOs operate in a transparent and accountable manner (i.e., within a legal framework) and are supported by the people, there

should be no reason for governments to oppose them. There are some doors open to NGO activities in Jordan. However, trust between the government and NGOs has to be built. New government led policies should encourage and enable public participation. She pointed to the need for financial and human resources. Human rights training, for instance would be particularly useful.

2.3. Perspectives from Canada

Two speakers shared elements of the Canadian experience with New Diplomacy. Stephen Owen (M.P.) joined the conference on behalf the Government of Canada and Foreign Affairs Minister John Manley. He examined two key principles of human security and addressed challenges related to modern governance. Michel de Salaberry (former Canadian Ambassador to Jordan and Iran) shared his experience serving in Jordan and Iran, outlined three challenges facing diplomats today and expressed his concerns about the effectiveness of international norms.

Stephen Owen, M.P., extended greetings on behalf of the government of Canada and Foreign Affairs Minister John Manley. He said that Minister Manley will take human security forward. Owen suggested that human security includes two key principles:
1. Human potential (i.e., every person should be able to meet his or her potential)
2. Self-realisation without secession (i.e., each group should be able to self-realise without seceding from the state it lives in).

Owen pointed out that the relationships among the market, civil society and the state are still unformed. If unchecked, each sector has dangerous tendencies. Capitalists aspire to be monopolists. Politicians aspire to be autocrats. Meanwhile, civil society is not inherently democratic. It often resorts to populism, for instance. Owen argued that it is possible to develop adequate checks: codes of conduct may be implemented to check corporate behaviour or rigorous accountability demands could be applied to the NGOs. NGOs must demonstrate a democratic nature as the door to their participation in global governance opens.

Canada has had a considerable experience in accommodating the needs of minority groups for self-governance without secession. This experience includes managing the relationship between the French and the English as well as addressing the demands and concerns of the Aboriginal Peoples. Through a multicultural approach, Canada recognises that people have multiple loyalties. This Canadian reality necessitates new, "textured" approaches to governance. An excellent example is self-government for Aboriginal Peoples.

A major challenge for policy makers is to square the principle of human potential with Canada's trade objectives. Owen said that trading arrangements, including the Free Trade Area of the Americas (FTAA) must link trade to human rights as well as environmental and labour standards. "The benefits of international trade are not equally enjoyed around the world and we have to address this imbalance by linking the economic agenda with the principle of human

potential."

In conclusion, Owen addressed approaches to peacebuilding. He stressed the need to build consensus from the moderate centre and through involving the grass-roots, even though this strategy may contribute to radicalising and marginalising the extremists. He also reflected on the privileges Canadians enjoy. He said that the only way "we can justify our good fortune is to appreciate it and share our experience with others."

Michel de Salaberry spoke about his experience serving as a diplomat in Jordan and Iran and outlined three challenges facing diplomats today:

1. The scope of diplomacy is broadening. There are multiple actors and interests to grapple with. A brief look at Canadian interests in Iran demonstrates this point well, they include: security (i.e., oil flows, weapons of mass destruction, regional stability, stability of Iran, safety of Canadians), prosperity (i.e., sales of Canadian products and services to Iran), and values (i.e., values of Canadians of Iranian origin, freedom of expression and assembly, the judicial system and the rule of law, women's rights). Each item has its own interlocutors and each can be justified as relevant in the context of Canada's foreign policy.

2. Diplomats are often faced with promoting contradictory interests. For instance, the promotion of free trade is often contradictory to the commitment to human rights.

3. Building coalitions in support of international instruments has become a key diplomatic tool. It is often the only way for a country such as Canada to be effective.

De Salaberry raised three concerns about the effectiveness of international norms:

1. While international norms are important, the "West," especially, should be cautious not to raise false expectations about their impact.

2. The achievement of all goals depends on two factors: human commitment and funding. People in the Middle East have been "sensitised" to the diminishing sums allocated to development in the budgets of Western countries, including Canada, and have attempted to find creative ways to compensate for the shortfall. Nevertheless, means have to be identified for poorer countries to be able to participate in the creation of international norms and their promotion at home.

3. While the Landmines Convention and the establishment of the International Criminal Court are great accomplishments, the problems they attempt to address can not be resolved in the short term. Meanwhile, violations of international law occur everyday, as one can easily ascertain from newspaper and television headlines. Intermediate efforts are essential, even if they include such seemingly insignificant acts as identifying and

reporting on issues that raise normative questions, or expressing respect and solidarity for those courageous enough to identify and report crimes.

2.4. A Failure of the New Diplomacy: A Case Study of Cyprus

Costas Melakopides (University of Cyprus) addressed New Diplomacy in the context of the Cyprus problem. He said that "human security perceptions and New Diplomacy devices have all but left untouched the borders of the Republic of Cyprus." The island's problems remain unsolved despite dozens of UN resolutions and European Union declarations condemning Turkey's actions as well as conflict-resolution efforts by other actors including international mediators, NGOs, and Cypriot civil society groups.

He suggested that the European Union holds the key to the resolution of the Cyprus problem. In December 1999, the European Council at Helsinki decoupled the EU accession of the Republic of Cyprus from prior resolution of its political problem and awarded Turkey the status of a candidate for eventual EU membership. He expressed the hope of the Greek Cypriots that the EU means what it says and will not allow Washington to change the course set in Helsinki. He also drew attention to the deteriorating economic and social conditions of the Turkish Cypriots, who, according to Melakopides, "appear now to desire more than ever their participation in the European Union, in valiant disregard of the official position of the Denktash regime."

The anticipated overflow of the so called "earthquake diplomacy" between Greece and Turkey on the shores of Cyprus has not materialised yet. On the contrary, Melakopides suggested that "the Cyprus-related intransigence of Ankara and of the Turkish Cypriot leadership has recently increased, unaffected both by Greece's and the EU's gestures in Helsinki and by Turkey's concomitant obligations as an EU candidate." Melakopides argued that if Kosovo was treated as a case within the human security paradigm, why not Cyprus?

2.5. Comment and the Synopsis of the Discussion

Steven Lee addressed two issues related to the presentations summarised above: 1) the changing relationship between the state and citizens and 2) the power of earthquake or citizen-based diplomacy. He said that New Diplomacy is not only participatory, it involves partnerships for common goals. Lee posed the question of how can the state share space with civil society? In some cases, legitimacy is granted by the state to the non-government sector. Just as in the case of the landmines campaign, sovereignty can be pooled, integrating governmental and non-governmental functions in the pursuit of a common goal. He asked whether NGOs are representative of civil society or not. He also addressed the concept of "regional" civil societies and asked how to define a "region" in the Internet age. He suggested that the development of an integrated Europe demonstrates the changing relationship between the citizen and the state. Links between citizens and supra-state bodies are increasing. This trend necessitates that people shift or

multiply their loyalties and identities.

He drew attention to the positive effect earthquake diplomacy has had on the relationship between Greece and Turkey and to the failure of new as well as old diplomacy in addressing the Cyprus problem. He suggested that there is still a potential for New Diplomacy to have effect on the island. For instance, water shortages may lead to cooperation between the Greek Cypriots and the Turkish Cypriots. Such common technical projects may cut through the layers of obstacles that currently prevent the building of relationships between the two sides.

A point was made during the discussion that globalisation is an antithesis to human rights. The superpowers and the institutions they control, including the International Monetary Fund, World Bank, the media, NATO, the Security Council, etc., have set an agenda that is different from the objectives of a growing number of civil society groups and individuals around the world. "It is not for the people of the world that New Diplomacy works." They have their own "street politics" to counter the negative impacts of globalisation. "The superpowers must change their approach to avoid polarisation."

3. THE INTERNATIONAL CRIMINAL COURT

3.1. Summary of Panel Presentations

Three contributions addressed issues related to the establishment of the International Criminal Court. William Schabas (Irish Centre for Human Rights) outlined the origins of the Court and addressed three contentious issues arising from the Rome Statute: 1) the possibility of a deferral of investigation or prosecution by the Security Council, 2) the need for an independent prosecutor, and 3) the need for the Court to assess (or define) a crime of aggression independently of the Security Council. Cheloka Beyani (London School of Economics) drew attention to several limitations of the ICC jurisdiction and its effects on domestic jurisdiction. He also offered recommendations to make the ICC more effective. Alexei Avtonomov (Russian Academy of Science) emphasised the need for the ICC to remain independent and drew attention to the legal and judicial challenges facing Russia.

William Schabas said that the International Criminal Court may well be the most important institution since the creation on the United Nations. The Statute of Rome of the ICC is the most complex international instrument ever drafted, encompassing public international law, criminal law, international human rights law, and international humanitarian law. At the same time the Statute has some limitations: it was drafted under a time constraint, involved many actors and the text includes some ambiguities.

The idea of creating an ICC has been around since the 19th century and was revived in 1919 at the Paris Conference. The General Assembly of the UN adopted the *Convention on the Prevention and Punishment of the Crime of Genocide* in 1948. In the same resolution, the General Assembly also invited the International Law Commission " to study the desirability and

possibility of establishing an international judicial organ for the trial of persons charged with genocide... " The Commission concluded that such an organ was both desirable and possible. As a result, the General Assembly established a committee to prepare proposals for establishing an international Court. The Committee prepared a draft statute in 1951 and a revised draft statute in 1953. However, establishing the court proved difficult in the context of the Cold War. The General Assembly decided to postpone consideration of the draft statute pending the adoption of a definition of "aggression."

Since then, establishing the Court has been considered periodically. In December 1989, the General Assembly asked the International Law Commission to resume its work. In an effort to bring an end to the widespread human suffering in Kosovo, the UN Security Council established the Ad Hoc International Criminal Tribunal for the Former Yugoslavia, to hold individuals accountable for crimes against humanity and genocide. The Tribunal for the Former Yugoslavia, along with the Nürnberg Tribunal, were the models for the ICC. In 1994, the International Law Commission submitted the draft statute for the ICC to the General Assembly. An Ad Hoc Committee on the Establishment of an International Criminal Court was created to consider changes to the draft. Thereafter, the Preparatory Committee on the Establishment of an International Criminal Court was tasked to prepare a consolidated draft text for submission to a diplomatic conference. The final version was adopted in Rome (15 June - 17 June, 1998) during the 52nd session of the General Assembly.[4]

The driving forces behind the creation of the ICC were like-minded countries and NGOs. The process was faster than anybody expected.139 states signed the Statute of Rome, including the U.S. and Israel. As of June 28, 2001, there were 35 ratifications and one accession -- Dominica.[5] The like-minded countries caucus originated in 1995 and comprised of 60 states including: Canada, Jordan, Egypt, Australia, Zambia, Trinidad and Tobago, Czech Republic, and Argentina. Canada chaired the caucus until the Treaty of Rome Conference, when Australia took over. U.K. has become an active member and continues to drive the process. Another major actor was the NGO Coalition for the International Criminal Court – an umbrella group of

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[4]See http://www.un.org/law/icc/general/overview.htm

[5]Countries that have ratified are : Andorra, Antigua and Barbuda, Argentina, Austria, Belgium, Belize, Botswana, Canada, Costa Rica, Croatia, Denmark, Dominica, Fiji, Finland, France, Gabon, Germany, Ghana, Iceland, Italy, Lesotho, Luxembourg, Mali, Marshall Islands, New Zealand, Norway, Paraguay, San Marion, Senegal, Sierra Leone, South Africa, Spain, Sweden, Tajikistan, Trinidad and Tobago, Venezuela. See: http://un.org/law/icc/statute/status.htm

approximately 1000 NGOs from all over the world. The Coalition focussed on three activities:

1. Operated as a brain trust, providing information and data particularly to the smaller countries.
2. Influenced the unfolding debate through publishing and other activities, adjusting the position of delegations.
3. Developed legal advisor projects where lawyers and experts would assist delegations.

Schabas took up three contentious issues raised by the Rome Statute:

1. *Deferral of investigation or prosecution* (Article 16 of the Rome Statute). Under this article no investigation or prosecution may be commenced or proceeded with for a period of 12 months after the Security Council has requested the Court to that effect. The overlap of issues addressed by both the ICC and the Security Council creates tension between the two bodies. The Statute basically allows the Security Council to stop (delay) prosecution in cases where the pursuit of justice could prevent or undermine peace and security.

2. *Independent Prosecutor* (Article 15 of the Rome Statute). The need for an independent Prosecutor was highlighted. The Prosecutor should be allowed to trigger the jurisdiction of the court of his or her accord (i.e., without a formal complaint), as was the case of the International Tribunal for the Former Yugoslavia.

3. *Crime of Aggression.* The Court has jurisdiction with respect to the crime of genocide, crimes against humanity, war crimes, and the crime of aggression. A provision related to the crime of aggression is yet to be adopted. Once again, the need for independence of the ICC from the Security Council was raised. According to the Lawyers Committee:[6]

   The mechanisms for establishing accountability for an act of aggression, as provided for in the draft statute, undermine the independence of the court. Under Article 23(2) of the draft statute, a complaint of or directly related to an act of aggression could not be brought unless the Security Council has first determined that a state has committed the act of aggression which is the subject of the complaint. If the ICC cannot rule on individual responsibility unless that condition is fulfilled, the question arises as to whether the court could find an individual not guilty regardless of the Council's determination that aggression was involved. If it could not do so, the court would obviously be subject to the

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[6] http://www.lchr.org/icc/pap1sec3.htm

political will of the Security Council, an outcome detrimental both to its integrity and to the due process rights of defendants.

Schabas added that the Security Council should not provide the mechanism for determining aggression, since Security Council members could easily exclude themselves from investigation (or prosecution).

A successful outcome for the ICC would be if it was allowed to deal with international peace and security independently from the Security Council and the veto of the P-5. There is much desire around the world for an independent body which would be effective where the UN has failed. The support is especially high in Africa, where the failure of the UN, along with other regional organisations, is especially apparent. There are also serious obstacles to the Court's creation including the objections of the U.S. over the lack of control Washington would exercise over the body and the possibility of prosecuting U.S. citizens.

Cheloka Beyani examined the effects of the ICC on domestic jurisdiction and drew attention to some important limitations of the ICC jurisdiction. In this context, he raised two points: the first related to the tension between the willingness of states to yield to international jurisdiction and the significant amount of control states retain over their domestic jurisdiction. The second draws attention to the tension between universal jurisdiction and the principle of complementarity.

Prior to the establishment of the ICC, states rarely yielded on criminal jurisdiction to extraterritorial or supra-territorial bodies. In this respect the ICC is unprecedented. Nonetheless, the states still retain a lot of control.[7] The content of jurisdiction varies between states and is influenced by strategic and political interests and considerations. Without the implementation of domestic jurisdiction the prosecution of international crimes is not possible. Under the opt-in regime, applicable to all the crimes except genocide, it is up to each state to decide which crimes it will submit to the court's jurisdiction. "This is done by means of a declaration, which may, *inter alia*, be of general application, or be limited to particular conduct or conduct committed during a particular period of time."[8] The jurisdiction is also limited by the time the Rome Statute comes into force.

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[7]For instance, it is up to each state to decide which crimes it will submit to the court's jurisdiction, with the exception of the crime of genocide. The court can try an individual for a crime other than genocide only if both the state which has custody of the suspect and the state on whose territory the crime was committed, have agreed to the court's jurisdiction.

[8] http://www.un.org/law/icc/general/overview.htm

The ICC effectively centralises international jurisdiction, creating a universal jurisdiction. However, this trend is tempered by the principle of complementarity, which defines the relationship between the ICC and national judicial systems. It is interpreted to mean that the Court would come into operation only in cases where national trial procedures "may not be available or may be ineffective. " According to the Lawyers Committee:[9]

> ...the court is intended to function in situations where there is no prospect that persons charged with crimes within the court's jurisdiction will be duly tried in national courts. The ICC is thus meant to act as a body which will " complement existing national jurisdictions and existing procedures for international judicial cooperation in criminal maters. " It is " not intended to exclude the jurisdiction of national courts or to affect the right of states to seek extradition and other forms of international judicial assistance under existing arrangements. "

Beyani added that complementarity is a tool to balance the power of the states and the ICC. There are some contentious issues raised by the complementarity principle such as, for instance: when is a national jurisdiction deemed not available or ineffective and who makes that decision? In order to have real and functioning complementarity, the jurisdiction of states, especially over war crimes such as rape or the denial of food, should be updated and harmonised with universal jurisdiction. Some countries, such as Ethiopia, have comprehensive jurisdictions. However, they need technical assistance to ratify the Rome Statute and to enact legislation that gives effect to the universal jurisdiction.

There are defects in the exercise of domestic jurisdiction over genocide. The intent of genocide is difficult to prove. Therefore, attempts and conspiracies are prosecuted rather than the substantive crime of genocide. In some instances it is a mercy to be prosecuted by the ICC rather than a national court since domestic prosecution could lead to a death penalty.

In conclusion Beyani offered three recommendations:

1. Technical assistance to states with less capacity to enact and implement legislation, giving effect to the prosecution and punishment of international crimes, should be developed.
2. Mutual assistance and co-operation, including transfers of criminal procedures in matters under the ICC jurisdiction, should be strengthened.
3. A global fund to finance investigations, extraditions, and criminal proceedings over crimes under the ICC jurisdiction should be established

Alexei Avtonomov cautioned against politicising the ICC. Just as internal judiciaries of democratic states are independent from political processes, so should the international judiciary

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[9]Ibid

be independent from the political and strategic interests of states. He said that cooperation, without prejudice, is needed for the court to function as envisioned. The Nürnberg Tribunal presents the only case where the international community cooperated on legal/judicial matters on a large scale in the past. However, the situation is entirely different today: there are no winners and losers.

He addressed the situation in Russia and said that judicial reform is needed. Civil society does not have experience in appealing to the domestic judiciary. Moreover, international law should become integrated with domestic law. This will require implementing international standards and training judges. Integration of Russia into the international community would create real legal instruments and mechanism, despite some dissenting voices. The West should support the efforts of Russia and other East European countries for integration. He encouraged cooperation as the instrument of creating an independent international judiciary and challenged the NGO community to lead the way.

3.2. Comment and the Synopsis of the Discussion

Iver Neumann (Norwegian Institute of International Relations) pointed to the enormity of the changes that have occurred with the establishment of the ICC. Historically, relations between political entities have not been well institutionalised and formalised. In this sense, the international community does not have a heritage to build upon. He raised caution about dismantling the Westphalian system – the founding principle of international society, too recklessly. "When will the attack on the immunity of the sovereign spill over to affect diplomatic immunity," for instance? Neumann also addressed law as a driving force for politics, and asked at which point do lawyers outrun the politicians.

The discussion revolved around three key themes: 1) the relationship between law and practice, 2) independence and utility of the ICC, and 3) a permanent ICC *versus* ad hoc tribunals. Andrew Williams argued that defining practice before it actually exists is reminiscent of the disarmament efforts in 1950's and may be problematic. On the other hand, in order to build international customary law, one has to break the law first. Beyani pointed out that international law does stem from practice since the ad hoc tribunals set a precedent. In this sense, the law was not defined without practice.

Several participants expressed their concerns about the independence of the ICC. One participant pointed to the double standards of the UN Security Council in denying UN forces for the protection of Palestinians in the occupied territories (due to a U.S. veto), emphasising the argument that the ICC must be free from the political and strategic interests of the P-5. In addition, some said that while New Diplomacy may work for the West, it has little effect in the Middle East. Others raised caution about tampering with the international system and the traditional role of the P-5 in maintaining stability. There were doubts about the real utility of the ICC. If the principle of complementarity works, then the ICC will not be needed because

criminals will be brought to justice at home.

A suggestion was made that the ad hoc tribunals are flexible and fulfil the needs of the international community for justice. Others argued that ad hoc tribunals may be difficult to establish, can be easily used for political purposes and rarely address systemic problems such as human trafficking or illegal drug trade. Moreover, many developing countries would prefer to have a permanent body.

4. THE CREATION OF NORMS AND THE FUTURE OF LIBERALISM

4.1. Summary of Panel Presentations

Ramesh Thakur (United Nations University, Tokyo) and Andrew Williams (University of Kent) examined the normative frameworks within which New Diplomacy, and in extension the ICC, operate. While Thakur pointed to the danger of Western high-mindedness when it comes to norm building and enforcement, Williams examined the resilience of liberalism to overcome recent setbacks and wide-spread disillusionment with the so called "new world order."

Ramesh Thakur drew attention to the danger of the "West" setting up poor countries as objects of international norms and laws rather than active participants in their development and enforcement. The "West" tends to dominate the development and enforcement of norms and laws while the "rest" are treated as "norm and law takers." He reminded participants that many of the countries that are poor today have had long histories and complex civilisations. These countries do not like to be lectured about values and about what is civilised and what is not. Western countries have themselves consistently undermined human rights around the world in the past, yet they refuse to acknowledge that international instruments apply to them as much as they apply to poorer, non-Western countries. He asked whether creating international norms and laws is a two-way street or whether Western values will diffuse into the rest of the world.

In this context, Thakur addressed humanitarian intervention as an emerging norm. He said that humanitarian intervention should be conceptualised in the context of international human rights law. He pointed to the double standards in how the UN Security Council tackles (or ignores) problems around the world. While intervention was sanctioned in Kosovo (even though belatedly), the Palestinians have nowhere to turn for help. Who decides what constitutes a massive human rights violation which justifies an intervention? Who decides that no intervention is required, necessary or possible? Today, the decisions rest in the hands of the P-5 (or the veto of one). However, insisting on Security Council authorisation may equate to complicity. Failure to act, due to a stalemate on the Security Council, may allow a country to descend into chaos. Thakur added that the international community has a responsibility not only to intervene in a crisis, but also to assist before a crisis culminates into conflict and after a conflict ends.

Similarly to the norms related to interventions, non-proliferation norms are also applied inconsistently and unjustly. As a result of these inconsistencies, there is a danger that the poorer, non-Western countries see the norms developed in the "West" as "victor's justice." He warned that inconsistent norms (or normative incoherence) can become an instrument of embedding inequality in the world and stressed the need to bring developing countries into the norm-building process. The NGOs have been great champions and promoters of this, however, they are mostly located in the "North." A perception that they have become the tools of neo-colonialism is on the rise.

Andrew Williams examined the disappointment over achievements of the so called "new world order." In the 1990's, some observers, notably Francis Fukuyama, suggested that with the collapse of the East Block, liberalism has emerged triumphant. This claim was based on three basic assumptions:

1. The idea of self-determination, both for states and for individuals through the extension of the principle of human rights, has been widely accepted.
2. A general consensus emerged that capitalism, moderated by a global regulatory mechanism, is the engine of growth and wealth.
3. The United Nations system provided an adequate security umbrella (or collective security) under which liberal values and capitalism could flourish.

Today, the enthusiasm about the victory of liberalism and the righteousness of the new world order have largely dissipated. There are myriad of reasons for this including:

- the growing incidence of ethnic (internal) wars
- the failure of the UN to provide global peace and security (illustrated by successive UN fiascos in Somalia, Rwanda and other places)
- the creation of a rather large anti-capitalist coalition to counter the dangers associated with capitalism.

Williams asked whether the claims that liberalism is bankrupt are true. "Should we throw out the baby of liberalism with the bathwater of the new world order?" He suggested that the basic principles of liberalism – tolerance, charity and faith in the future, are ideas to which we must all aspire. Nonetheless, we should not descend into the complacency that was the hallmark of the 1990 "new world order:" liberal beliefs have to be fought for. Just as in 1939, when there was a widespread belief that liberal democracy was finished, liberalism is again under attack. Once again liberalism is suffering form self-doubt, and it must defend itself and those who look to it for help. He continued:

> It must do so not only with the kinds of action we saw in Bosnia and Kosovo, understandable as those were. It must get a much better grip on rebuilding such societies as the former Yugoslavia and Soviet Union, not only in terms of

economic infrastructure, but also in helping the local population rebuild social capital. At present we are much better at destroying bridges in Novi Sad across the Danube than in rebuilding them. And much better at encouraging states to demand their self-determination than in helping them once they have it.

Williams said that we must give a viable alternative to the "insane communitarianism of Milosevic." That alternative must be much more generous and provide much better organisational assistance to those in need (one that does not use up 80-90% of its effort in maintaining its own organisational infrastructure).

4.2. Comment and the Synopsis of the Discussion

James Reed (Harvard University) addressed four issues: 1) the strength of the New Diplomacy, 2) the existence of the "new world order, "3) the basis of a possible future world order and 4) the inevitability of globalisation. He asked whether New Diplomacy was a new trend. He said that Americans related the phenomenon to the ideas of Woodrow Wilson (despite his limited views about race, the market and an easy applicability of U.S. style democracy around the world). Is New Diplomacy a movement in international relations or is it a generalisation based on two cases: the success of the landmines campaign and the establishment of the International Criminal Court? Will Canada continue to press human security objectives after the departure of Lloyd Axworthy? Reed suggested that economic integration has replaced human security at the apex of Canadian foreign policy.

He also asked whether there ever was a "new world order." Despite the enthusiasm of some Americans and others in the 1990's about its emergence, one could argue that the old bipolar order simply collapsed. The U.S. came out of the Cold War as the world's hegemon (or hyper-power). Yet, as the wars in Kosovo and elsewhere suggest, the U.S. cannot accept loss of military life in armed conflicts, for instance. This attitude, among others, puts the permanency of the U.S. hegemony into doubt. Reed suggested that this period of "patchwork U.S. hegemony" will be replaced by a multipolar world, which may be just as temporary.

Reed addressed a future world order. He said that, on the one hand, it is plausible that civil society becomes the basis of the international community. On the other hand, we should not extrapolate from Western trends what may happen elsewhere in the world. A future world order may emerge from cultural assumptions that are different from prevailing Western values. A Confucian Chinese civilisation, free from the largely discredited communist ideology, may well emerge as the basis for this world order. Reed suggested that such a civilisation would likely put less emphasis on human rights than Western civilisations and expressed his scepticism about the degree to which relations could improve between the U.S. and a post-communist Confucian China. A humane and modern Islamic society could also become a basis for a new order. The potential for this development stems from the revival of Islam. We should not assume that the

entire world will be seduced by the trinkets conspicuously consumed by Western civilisation. "Every society has an absolute relationship with God, we [i.e., observers located in the "West"] should not sit in judgement of others."

Reed said that globalisation may be a catch phrase of Milton Friedman's supporters, rather than a defining feature of our time. To what degree can we associate the trends related to globalisation (i.e., the growth of corporate power, downsizing of public sector, etc.) with the weakening of the state itself? It may well be that states are simply being embroiled in the free market logic and their sense of social responsibility has weakened. In this case, states may be pressured to resume their social functions. Moreover, protectionism is likely to increase as the business cycle declines.

Melakopides said that there is a set of central values that are universal. These values have been incorporated into dozens of conventions over the past decades. Thakur suggested that it is impossible to have world-wide universal values and world-wide universal application of norms and pointed to the value of constructivism. A [culturally sensitive] framework that comprehends material interests and includes relevant incentives and disincentives for action has to be constructed, depending on circumstances. In this context, the efforts of Western-driven international coalitions [of states and NGOs] aimed at building and implementing norms, largely defined in the "West," could be interpreted by non-Western observers as "high-minded," rather than like-minded. This is especially the case when Western norms ignore material, cultural, social, political and other realities of countries outside of the Western sphere (since these factors affect the acceptance, implementation and enforcement of norms).

Graham pointed out that perceiving the world as "West *versus* the rest" is too simplistic. There is a multiplicity of value systems that do not fall within these categories. Islam itself has a variety of interpretations. He emphasised the role of dialogue, mutual respect, and cooperation in bridging cultural (value-based) differences and creating a balance around the world. The thesis submitted by authors such as Samuel Huntington may be destructive to constructivism and need for dialogue. Cultural determinism could be used (and was used) in the Balkans and elsewhere to justify some of the most appalling treatment of minorities or ethnically (culturally) defined groups.

5. THE ROLE OF NGOs AND CORPORATIONS IN GLOBAL GOVERNANCE: NEW NORMS?

5.1. Summary of Panel Presentations

William Maley (Australian Defence College) examined the role of NGOs in global governance more generally and outlined causes that may diminish their effectiveness in lobbying domestic governments. Constante Muzio (United Nations Development Programme) along with Sharifa Zein Al Sharaf bint Nasser addressed the role of NGOs in Jordan. Meanwhile, Alan

O'Brian (AMEC Ltd.) emphasised the need to link corporate profits to sustainability and social corporate responsibility.

William Maley examined the role of NGOs in the emerging international system. He said that advocacy NGOs can either be actors in international politics or domestic politics. Internationally, they can act on their own, in alliance with other NGOs or international organisations or in alliance with states (like in the landmines campaign). As domestic actors, NGOs are subject to state laws, constraints imposed by the nature of the state political system, and co-optation. These factors intersect to affect the capacity of NGOs for popular education, relations with the media and agenda-setting capacities.

Maley emphasised that NGOs are not a " harmonious choir." They can differ over means as well as ends. Moreover, he reminded participants of the existence of an "uncivil" society. In this sense, the NGOs can preach an agenda which is inimical to the "new security agenda."

Politicians often put forward the argument that advocacy NGOs are self-appointed, while they are elected and therefore legitimate. It may well be that the majority of the population is in consensus with the government against the NGO views. Moreover, do the supporters of the "new security agenda " endorse NGO agitation in general or do they endorse NGO agitation selectively, based on their approval, for instance? Another possibility is that not all elements of the state follow a common agenda. Perhaps the most striking examples of the incongruous state agenda are refugee policy and border control. Many wealthy societies worry about the victims of the world reaching their shores. At the same time, they are aware of the responsibilities related to their status and that they have the capacity to help these people. Foreign affairs may well see refugee and population movements within the framework of human security. However, refugee policy may be in the hands of the immigration department, which may see the matter in a more exclusionary way. The fragmentation of state responsibilities limits the coherence of the human security agenda as well as the impact of NGOs.

Maley concluded by saying that different parts of the state control different parts of public policy. The executives can differ from judiciaries. NGOs may be influential with some bureaucracies, but not with others which have different agendas. Therefore, NGO influence on the development of international law is likely to be patchy, depending on the patterns of alliance with different elements of the state.

Costante Muzio examined the situation of NGOs in Jordan. He said that they are well established and organised and operate in a relatively free space. NGOs have come to play an instrumental role at the community level in Jordan and the region in general. Their importance is widely recognised.

There are several types of NGOs operating in Jordan:

1. Voluntary NGOs have grown in number especially since the conflict between Israelis and Palestinians intensified. They are seen as taking on the social roles abandoned by the "diminished" state.
2. Multi-service NGOs span a myriad of activities from providing food, clothing and shelter to childcare.
3. Development NGOs work actively with the UN and specialised agencies. Some deal with human rights, others with environment issues.

Muzio suggested that voluntary and other non-governmental activities support the cohesion of the state. Many NGOs are taking on responsibilities previously born by families.

> The UNDP has three objectives:
>
> 1. To promote an enabling environment.
> 2. To support capacity building needs of civil society.
> 3. To enhance the capacity of UN employees.

NGOs have become real partners in the UN, in some instances, substituting for states as the vehicles for solving problems. The relationship between them and the UNDP, in particular, has developed and strengthened. The UNDP selects partner NGOs based on their thematic focus as well as their capacity to sustain themselves and to show aptitude toward expansion. Areas in which the UNDP partners with NGOs include:

- governance
- poverty reduction
- protection of the environment.

In conclusion Muzio emphasised the need for partnerships with NGOs to reach and maintain peace, security and human development.

H.R. Sharifa Zein Al Sharaf bint Nasser spoke about the Jordan Badia Research and Development Programme. The programme began as a joint Jordanian and British endeavour. Today it involves other partners, with the hope that Canada will join in the future. The programme aims to alleviate human security problems faced by the Bedouin population in Badia – an area which accounts for 80% of the territory of Jordan (among the objectives of the programmes are: developing human resources, developing water and land resources, addressing problems related to desertification, etc.). Projects include establishing an IT community centre as well as income generating and awareness raising initiatives. The programme is supported by the government of Jordan and the private sector.[10]

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[10] For more information visit http://www.badia.gov.jo/

Alan O'Brien drew attention to two trends: 1) the serious environmental problems plaguing the planet and 2) the fact that more than half of the world population lives on less than two dollars a day. He emphasised the need for international inter-sectoral cooperation to address environmental problems, since "anyone can seriously damage the biosphere." The growing gap between the have and the have nots (or the "never had") must also be addressed. This trend is unsupportable in the context of an increasingly consumer-oriented [world] society.

O'Brian suggested that in order to tackle both, environmental degradation and massive income and wealth disparities, profit and corporate share value should be linked with two key principles: sustainability and social corporate responsibility. Pollution and growing landfills are common side-effects of today's production. In the final analysis, the costs of cleaning up may be comparable to profits related to production. A possible alternative is to shift from production of goods to flow of services. Leasing arrangements, for instance, could be developed in order to reduce waste. There is a range of products, including carpets, that could be usefully returned to their producers for new production. Shareholder value should be build on sustainability. The criteria for judging companies should extend beyond the bottom line to include efforts to protect our environment. Cooperation and vision will be required to achieve such standards. Sustainability is still viewed with scepticism and fear by many businesses, nonetheless it could be seized as a business opportunity.

Social corporate responsibility should also be reflected in corporate share value. Share holder activism may well contribute to this trend. Creating and maintaining a good image is already an important factor in any marketing strategy. No company would like to have their production associated with child labour. A growing number of CEOs and managers are beginning to enforce social corporate responsibility on their suppliers located in the "South." Nonetheless, there are some negative elements associated with social corporate responsibility (SCR).

Negative elements of SCR	Positive elements of SCR
• a bureaucratic burden • lack of proof that implementing SCR leads to better performance • some cases of failure in the past • a difficulty to disengage from a commitment to SCR once it has been made	• a positive impact on risk management • expanded investment potential • attracts and motivates employees • may be a potential energy saver • may enhance brand attractiveness.

5.2. Synopsis of the Discussion

Discussion focussed on the behaviour of corporations and the role of NGOs in international relations. Some participants said that profits motivate corporations. Moreover, corporations have acquired a footloose character – moving from one place to another depending on the conditions offered by local authorities (i.e., the level of wages and taxes they are required

to pay, the environmental and labour laws they are required to abide by, etc.). In this context it is dubious that corporations would voluntarily cooperate with NGOs, develop social corporate responsibility and switch toward a sustainable production mode. Corporations are basically free to exploit low-wage labour and destroy local environment anywhere.

O'Brian was more optimistic about the future of corporate behaviour. He said that ethical leadership will be required in the private sector as much as at the UN. He drew attention to some examples, although spotty, of NGO – private sector cooperation and suggested that NGOs often do not wish to work with corporations. He reiterated the need for narrowing the gap between the rich and the poor, pointing out that technological transfers are not sufficient. Developing nations are more able to adapt sustainable options since they do not have large amounts of money invested in projects that are not environmentally friendly. In this sense they have an advantage over their "more developed" counterparts.

Some participants suggested that as the state sheds its social responsibilities, the NGOs are compelled to step in and fill in the gap. It is important that support for NGOs continues and that they remain independent. Others suggested that many NGOs, especially those in the U.S. rely on private sector donations. Markets and the viability of NGOs are often related. In some instances, competitive markets can be a source of independence against an oppressive state (as was the case in the former Soviet Block). Therefore, NGOs should not be necessarily perceived as alternative to globalisation.

Lee said that the role of NGOs within the UN system and in international relations in general is important. Southern NGOs need to be strengthened and neo-colonialism on the part of the northern NGOs and states alike avoided. Questions related to dealing with NGOs and civil society as equal partners will have to be addressed. These questions relate to issues including accountability, level and nature of participation, conflicts among NGOs and so on.

Khader suggested that NGO accountability should be rooted in the international legal framework, through provisions for transparency and clear auditing and reporting. NGOs should gain more access to the UN system and should be categorised into membership organisations and advocacy NGOs. She dismissed the claims that NGOs often come into conflict with each other and said that they understand plurality more than anyone else.

Awareness about human rights and development should be raised among the most marginalised and isolated members of society, including women and children. Emphasis should be made on dispelling the fear of change (i.e., a inclusion of women in leadership roles, etc.). Others argued that people should be made aware of their own culture before trying to condition them for a change.

6. CONCLUSION

Throughout the conference, participants stressed the need for cooperation among governments and non-governmental actors, including corporations. In this context, a plea was made to democratise global governance. The United Nations should lead the process by treating civil societies as equal to member states and by including the most marginalised people of the world in policy making. Many participants agreed that the persisting patterns of the traditional "great power" politics at the Security Council and elsewhere undermine the possible building of a global democracy accompanied by a just and equitable governing system. This overarching concern led to the conclusion that the International Criminal Court must be an independent, apolitical body, so that grievances are addressed justly regardless of who the plaintiffs and the defendants are or where they are located in the world.

Poorer countries should be empowered to participate in the creation of international norms. Moreover, technical assistance to states with less capacity to enact and implement legislation should be offered by more capable states, including training of judges and harmonising domestic legislation with international law. Norms should be applied and enforced consistently around the world to avoid further embedding existing patterns of inequality.

Despite some scepticism about the effectiveness of NGOs in steering policy on a wide range of issues, most participants agreed that NGOs play an important role in international relations today. In the Middle East in particular, NGOs have contributed to strengthening democracy and social cohesion. However, financial and human resources are needed to maintain their activities. Human rights training would be especially useful. Some participants expressed pessimism at the prospect of private sector cooperation with NGOs and governments on human security issues. Nonetheless, efforts are underway within some business communities to link profits and share value, on one hand, to social corporate responsibility and sustainability on the other.

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New Diplomacy: Development of International Law

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